

(Reuters) - MERS, the electronic mortgage registry that faces multiple investigations for its role in thousands of problematic foreclosure cases, changed its rules to lower its profile in court-supervised foreclosures.

MERS, a unit of Merscorp Inc. of Reston, Virginia, owns the computerized registry, Mortgage Electronic Registration Systems. Mortgage loan giants Fannie Mae and Freddie Mac and several of the largest U.S. banks established MERS in 1995 to circumvent the costly and cumbersome process of transferring ownership of mortgages and recording the changes with county clerks.

In rule changes announced to MERS members on July 21, the company forbade members to file any more foreclosure actions in MERS's name.

It also required mortgage servicers to obtain mortgage assignments and record them with county clerks before beginning foreclosures.

Mortgage-loan servicers perform routine duties for the investment trusts that own pools of mortgages, including collecting mortgage payments and, when necessary, filing foreclosures.

Although these trusts are legally required to own the mortgages when they file to foreclose, the servicers in many cases did not obtain documents known as assignments on their behalf until weeks or months after launching a foreclosure action in court, a recent Reuters Special Report found. ([link.reuters.com/kyb72s](http://link.reuters.com/kyb72s))

Since the collapse of the housing boom, many foreclosure cases were filed in MERS's name, even though the registry doesn't really own either the mortgage or the promissory note, the document which states the terms of the mortgage loan.

MERS's role in foreclosure cases has made it a lightning rod in recent months in court decisions which have held that loan servicers' use of the registry violates basic real estate and mortgage laws.

In the last week, state attorneys general in Massachusetts and Delaware have announced investigations of MERS, and several other states have broader inquiries into foreclosure practices that include MERS.

It is unclear how much the rule changes will help MERS with its legal problems.

Under the new rules, servicers are required to stop filing foreclosures in MERS's name, but MERS's role in foreclosures won't actually be eliminated. The servicers will continue to obtain the needed mortgage assignments from MERS. In past cases examined by Reuters, such assignments have included ones of questionable legitimacy, such as mortgages owned by now-defunct lenders.

O. Max Gardner III, a North Carolina lawyer who is specialist in foreclosure actions in bankruptcy courts, said the change will have the effect of making MERS's role in assigning mortgages invisible in court.

The assignments will still come from MERS, but "they just won't be in the court files any more," he said.

MERS spokeswoman Janice Smith said the new rules make mandatory a trend that already was under way.

She noted that Fannie Mae, Freddie Mac and several large banks already had stopped filing foreclosures in MERS name. Smith said the change would avoid confusing homeowners facing foreclosure by eliminating MERS, a company they had never heard of, from court documents.

She also said that MERS' s original purpose was to keep track of changes in servicers and mortgage ownership. "Foreclosure really was not central to MERS's core business," she said, adding that MERS received no income from foreclosures.

Mortgage-law specialists say that lenders and servicers for a long time relied heavily on bringing foreclosures in MERS's name. This helped make possible foreclosures that otherwise might not have taken place because the necessary original documents were missing.

MERS says that it is the holder of record of 32 million, or 60 per cent, of U.S. mortgages. But it has only a handful of employees. Instead, it has designated some 20,000 employees of banks and other servicers as MERS "officers."

Some courts and homeowners' lawyers have criticized this system because in effect it enables servicers to assign mortgages to themselves whenever they needed one to foreclose.

The rule change also comes amid a growing movement against MERS among county clerks around the U.S. They have been pressing state attorneys general and local prosecutors to investigate MERS for allegedly failing to record documents with them and pay the associated filing fees. The rule change, by requiring servicers to record mortgage assignments sooner and pay recording fees, will partly address the clerks' concerns.